

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON**

BRIAN D. WATSON,

Plaintiff,

v.

WYETH, D.B.A. WYETH CONSUMER
HEALTHCARE, and WYETH, INC.,

Defendant.

Case No. C03-5503JKA

**ORDER AWARDING PLAINTIFF
SUPPLEMENTAL ATTORNEY'S FEES**

THIS MATTER comes before the court pursuant to plaintiff's motion for supplemental attorney's fees. The court has considered the materials submitted in support of and in response to said motion as well as the files and records herein.

Plaintiff has been awarded attorney's fees pursuant to his initial application. He now seeks additional fees incurred responding to defendant's motion for (1) judgment as a matter of law and/or for a new trial, and (2) plaintiff's motion for an additur based on the tax consequences of the award. Plaintiff substantially prevailed on both of these issues and is entitled to compensation.

Defendant objects to the supplemental fee request for the following reasons:

1. The hours are billed at an hourly rate of \$300, although the court found the reasonable hourly rate to be \$250 when awarding the initial request for fees;

2. The billing statement includes time billed for matters other than defendant's motion for judgment as a matter of law/new trial and plaintiff's motion for additur; and
3. A portion of the hours for which plaintiff seeks compensation were included in the initial request for fees.

The court will address each issue in the order presented.

Hourly Rate

The court earlier determined the appropriate hourly rate to be awarded plaintiff's primary counsel is \$250. See Doc #164. Accordingly the court will utilize that hourly rate in ruling on plaintiff's motion for supplemental attorney' fees.

Consistency of Application and Billing Statement

and

Duplication of this request and initial Motion for Attorney's Fees

Because these two objections are interrelated they will be considered together. For purposes of this award the court will commence with services rendered on or after April 27, 2005. The billings of April 14 and 15, 2005 appear to relate to the prior attorney's fee issue and/or are not clearly related to the pending request. While a portion of the April 18, 2005 request appears to relate to the tax implication/additur issue it is not segregated from that portion relating to the "fee petition" which could not have been the supplemental fee petition given the date. Accordingly 13.6 hours will be deducted from plaintiff's request.

Accordingly the court grants plaintiff's motion for supplemental attorney's fees at the rate of \$250 per hour for 75 hours (87.6 requested - 13.6 denied) in the sum of \$18,750. The Clerk of Court is directed to amend/supplement the judgment accordingly.

July 29, 2005.

/s/ J. Kelley Arnold
J. Kelley Arnold, U.S. Magistrate Judge